

Date: December 11, 2000

Memo To: Conservation District Procedure Manual Holders

From: Bob Bottman, Grants Officer

Subject: Revision 45 – 1.) Change in Dairy Nutrient Program cost-share ceiling and rate.

2.) Cost-share and other payment provisions under the CREP program.

3.) Cost-share Q&A

Purpose of this revision

To provide guidance on changes in the Commission's cost-share policy for the Dairy Nutrient Management Grants Program, and to add a new section concerning cost-sharing and other payment provisions under the Conservation Reserve Enhancement Program (CREP).

Summary of revisions

1. The maximum cost-sharing limit for Dairy Nutrient Management Grants is increased from \$25,000 to \$50,000 per operation per grant. This higher limit applies to Dairy Nutrient Management grants only.
2. The maximum cost-sharing rate for Dairy Nutrient Management grants is increased from a base rate of 50 percent to 75 percent for all dairies. When Commission grant funds are used for cost-sharing, the total cost-sharing rate from all sources may not exceed 75 percent. Again, this higher percentage applies to Dairy Nutrient Management grants only.
3. The Commission will make available a part of its CREP financial assistance money through districts to landowners who need it to install a riparian buffer prior to receiving their federal Practice Incentive Payment (PIP). These advance payments will be made at zero percent interest, and will extend until the riparian buffer is certified, but no longer than three years.

Also, cost-share funds will be used for five-year maintenance costs, tree protectors for conifers, and for the SIP payment under contracts executed prior to July 19, 2000.
4. This revision also includes a new Questions and Answers section for cost-sharing.

The changes are found in: Water Quality Grants Program, Section 360 WQ, Pages 5 through 14.

Instructions to Conservation District Procedure Manual holders: This is the forty-fifth numbered revision to the Conservation District Procedure Manual. If you do not have an updated manual or manual binder, contact your field operations manager.

1. Insert this purple cover memo behind the "Revisions" tab, in front of the cover memos from all other revisions.

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2. Fill in the blanks after line 45 on the Index of Manual Revisions as follows:

#	Section	Issued	Subject	Date	Who
45	360	12/11/00	Dairy Nutrient Cost-share and CREP Policy Changes	Date inserted	Your initials

3. In Section 360 WQ, remove Pages 5 through 14 and discard.

4. In Section 360 WQ, insert new Pages 5 through 14.

- Field water quality test kit data. Although data from field-tests is typically not as reliable or detailed as that from a certified laboratory, it may be used to demonstrate gross water quality trends, or as a screening tool. Involvement of local schools, citizens, and civic organizations may also be used as part of the district's information-education program.

Grant Application Process

The Grant Application instructions and forms are included as Exhibits 360 WQ - A, B, and C after this manual sub-section (360 WQ). If you have questions, please call the Commission Grants Staff.

Cost-sharing Policy

Cost-sharing under Implementation and Competitive grants has been authorized since 1995, and has also been an integral part of appropriations given to the Commission for the Dairy Nutrient Management Program. The Commission believes that giving conservation districts the option to cost-share provides a tool that can be used to accelerate implementation of management practices needed to improve water quality.

Implementation and Competitive Grants

Project Priorities Districts will give highest priority for cost-sharing to projects that have the greatest likelihood of improving water quality, and that are listed in districts' Annual Plans of Work, or that are part of an approved watershed plan. Also, districts should give high priority for cost-sharing to projects located within Endangered Species Act (ESA) listed areas. The state-prepared Salmon and Steelhead Stock Inventory (SASSI) may be used for this purpose where ESA listings do not apply. Finally, districts should also give priority to watersheds or waterbodies where a standardized Water Quality monitoring Plan will be carried out during the life of the project.

BMP Priorities Districts will give high priority for cost-sharing BMPs that are a part of a complete conservation plan, or part of a watershed or riparian management plan or project, and lower priority to cost-sharing BMPs that are outside a conservation plan. If a district cost-shares BMPs that are not a part of a conservation plan, the BMPs should be designed to fit into the conservation needs of the whole operation or parcel, and also not be detrimental to a possible future conservation plan.

(NOTE: this template, as well as the other forms referenced in this section, are available from the Commission on diskette.) →

A Cost-share Project Rating Template is attached to this sections as Exhibit 360 WQ - Ai. Districts may use this template, or design their own. Also, this template may be modified to rate competing dairies during a bid process by adding dairy waste management program criteria.

Cost-sharing Budget There is no limit on the amount of funds from individual Implementation or Competitive grant budgets used for cost-sharing. However, there is a limit on the amount of cost-share funds each operation may receive (see page 6 and 7).

Rates Cost-share rates are based on total project costs and are set by each conservation district board, but will not exceed the following limits:

<u>Location Of Practice</u>	<u>Cost-share From Commission Grants</u>	<u>Total Cost-share From All Sources Including Commission Grants</u>
In-Stream	Up to 75 percent	Up to 100 percent
Riparian	Up to 75 percent	Up to 100 percent
Upland	Up to 50 percent	Up to 75 percent

When setting cost-share rates, District boards should consider: 1) BMP cost and effectiveness in improving water quality; 2) availability of other sources of cost-sharing; 3) local economic conditions; 4) the public benefit to be derived from the practice; and 5) the convenience of the practice to the landowner.

Cost-sharing Limit for Implementation and Competitive grants is \$25,000 per operation.

Irrigation ditches, canals, and ponds The Commission's cost-share policy for riparian areas may apply to irrigation ditches, canals, or ponds on a case-by-case basis. The local conservation district board of supervisors will make this determination based upon clear and direct benefits to water quality and related biological systems. Additional counsel may be provided by the Conservation Commission Field Operations Manager, if requested by the board.

Dairy Nutrient Management Grants

Project Priorities Districts administering a dairy nutrient management grant shall set their cost-sharing priorities as follows: 1) dairy operations with district-approved dairy nutrient management plans in place; 2) projects that will lead to complete dairy nutrient management systems; 3) local priorities as shown in the scope of work for each district's dairy nutrient management grant; and 4) other water quality dairy related priorities established by the district.

Technical Standards Dairy nutrient management practices must meet or exceed NRCS technical standards. However, alternative practices not consistent with the NRCS "Practice Standards and Specifications" may be used if deemed suitable by a licensed professional engineer.

Complete Dairy Nutrient Management Plans The Commission requires that Dairy Nutrient Management Plans (DNMPs) be approved by the District before it commits cost-share funds to any dairy. Dairy Nutrient Management Plans contain a record of the farmer's decisions and supporting information for treatment of a unit of land as a result of the planning process that will result in zero discharge of dairy nutrients to both surface and ground waters of the state. The Plan must contain the minimum elements for Dairy Nutrient Management Plans as detailed in the Conservation Commission "Checklist for Conservation District Approval of a Dairy Nutrient Management Plan".

An approved Plan is one that contains descriptions of all practices comprising the dairy waste management system(s) to be implemented under this program.

An approved Plan must also be agreed to and signed by both the dairy

operator and the chair of the conservation district. Districts may, at their discretion, require that BMPs contained in these Plans be completely designed before committing cost-share funds to any dairy operator.

Cost-shared BMPs are limited primarily to those that are required in the Dairy Nutrient Management Plan for the protection of water quality. If the district determines that BMPs in a Dairy Nutrient Management Plan are no longer sufficient to protect water quality, it may authorize cost-sharing to upgrade or replace these BMPs, as long as the Plan is also updated.

BMPs not in a DNMP may be cost-shared by the district using Implementation or Competitive grants, if they are considered a high priority by the board.

Cost-sharing budget Each dairy nutrient management grant contract has funds allocated to cost-sharing. These funds may not be used for any other purpose, and may not be transferred to another budget object.

Cost-share rates applicable to dairies only The maximum cost-share rate for dairies using Commission grant funds is 75 percent. No more than 75 percent of the total cost of the practices installed may be provided by the district, from all sources, when using Commission grant funds. In other words, the dairy operator is required to provide at least 25 percent of the cost.

Cost-sharing limit applicable to dairies only The dollar limit for cost-sharing under Commission Dairy Nutrient Management Grants is \$50,000 per operation, per grant.

Cost-share appeals for dairies If a district believes there is good reason to cost-share above the \$50,000 limit or at a rate higher than 75 percent, it may file an appeal as shown on pages 8 and 9.

**Cost-sharing
policy applicable to
all Water Quality
and Dairy Nutrient
Management
grants**

Districts are encouraged to use the **Water Quality Grants Cost-Sharing Application and Implementation Agreement** attached as Exhibit 360 WQ – Aiii. This form incorporates a worksheet for each practice on which landowner contributions and cost-sharing from other sources is clearly shown. As with other forms in this section, a District may use these forms as is, modify them based on local conditions, or use its own comparable forms.

Methods of payment A district may make cost-share payments directly to a cooperator on a reimbursement basis, or by providing the material and labor necessary for the project and then billing the cooperator for his share of the cost.

IRS Form 1099 If a district uses the reimbursement method, it is no longer required to provide IRS Form 1099 to cooperators who received cost-share payments.

Compliance checks Districts may use grant funds to monitor cost-shared projects for compliance with the goals of the grant. Monitoring may take the form of physical inspections, spot checks, and may include water quality monitoring or screening if appropriate. Provisions for monitoring compliance should be included in every cost-sharing agreement the district enters into with its cooperators.

Retroactive payments prohibited No retroactive cost-share payments shall be made under the Commission's cost-sharing program. For purposes of this policy, the effective date of a Cost-sharing Application and Implementation Agreement is the date the District chair signs it, not the date the cooperator signs it. The term "retroactive" refers to any time prior to the date of the chair's signature.

Cooperator's share The Commission will accept the value of in-kind labor from cooperators based on the established rate of \$18.00 per hour. The Commission will not accept the value of land taken out of production in the course of installation of cost-shared BMP's, or loss of production value.

Conservation easements For landowners with conservation easements, the value of the easement may make up the required landowner match. This applies to any BMPs installed within the easements.

Eligible BMPs All BMPs meeting NRCS standards, or alternative practice designs approved by a licensed professional engineer, are eligible for cost-sharing. Emphasis will be placed on BMPs involving structures and facilities, including bioengineering practices.

Maintenance or operation of existing BMPs is not eligible for funding under this program. However, cost-sharing may be used to repair existing BMPs damaged or destroyed by acts of nature. An "act of nature" is defined as an occurrence, especially a disaster, that is due entirely to the forces of nature and that could not reasonably have been prevented. Districts considering the use of cost-share dollars for repair of existing BMPs destroyed by an act of nature should consider the cost-effectiveness of the repair, whether the design criteria is adequate, and if the public benefit outweighs private gain.

Unique situations If a District believes that cost-sharing a BMP in a unique situation will have a demonstrable, positive water quality impact, they may request cost-sharing approval from the Commission on a case-by-case basis. "A unique situation" is one that is outside the policy established and contained in Section 360 of this Procedures Manual and in the General Terms and Conditions attached to the Commission's grant contracts. The approval process for unique situations is the same as for cost-share appeals shown below.

Cost-share appeals If a district believes there is good reason to request a variance in either the cost-share rate or dollar limit for a Water Quality Program grant (Implementation or Competitive), or a Dairy Nutrient Management Program grant, it may submit an appeal to the Commission stating the nature of the hardship or special circumstance, and the cost-share percentage or maximum amount of cost-share desired.

Appeals of the Commission's cost-sharing policy must be in writing, signed by the district chair or designee, and sent to the Commission grants staff. Also, the appealing district must send a representative, authorized to speak on behalf of the district, to the Commission meeting at which the appeal will be heard. Commission members will consider variance requests on a case-by-case basis, and will respond to requests within two working days following the meetings. Appeals should be received in the Commission's headquarters office at least 15 days prior to

the next regularly scheduled Commission meeting in order to be considered at that meeting.

Location of BMPs Cost-sharing may be used in urban areas as well as on rural farms and ranches. Projects funded in urban areas must meet the same requirements as those funded on agricultural land. Districts may cost-share on publicly owned lands as long as the cost-share agreement includes the public entity, and the lands in question are under the control of the public entity. In the case of cost-sharing with a lessee located on publicly owned land, the entity owning the land must also be a signatory to the cost-sharing application.

Pooling agreements A group of individual operators may pool their cost-share funds, by written agreement, to install BMPs that provide water quality benefits. Such pooling agreements must include operation and maintenance requirements.

Cost of BMPs The costing-out of BMPs shall be based on local FSA data, or established NRCS contract cost lists. Operators shall be allowed to obtain their own bids for installation of BMPs.

Maintenance of BMPs Operators or landowners shall agree to maintain BMPs cost-shared under this program for the design life of the BMPs, as determined by FSA and/or NRCS standards, or as determined by a licensed professional engineer.

**Cost-share policy
applicable to CREP
only**

Ten percent cost-share The State, through the Commission and conservation districts, pays ten percent of the cost of establishing riparian buffers under the CREP program. Funds for this cost-sharing is contained in each district CREP grant.

**Other special
payment
provisions of
CREP**

Five-year annual maintenance costs The Commission has agreed to provide to landowners participating in the CREP program maintenance costs for five years from the establishment date (the date the producer has installed all cost-shared components the first time). Each CREP conservation district is required to work with FSA and the landowner to project these costs. This projection will then be used by the Commission to amend, if necessary, the budget in each district's CREP contract. This is because the Commission must encumber these funds so that they can be reappropriated across biennial lines for future use.

Tree protectors The Commission has also agreed to pay 100 percent of the cost of tree protectors needed to establish riparian buffers under the CREP program, for conifers not covered by FSA. The cost of tree protectors will be a known cost when the riparian buffer is established and will be paid to the landowner by the district in the same manner as a cost-share payment.

Advance payments to landowners based on FSA Practice Incentive Payments (PIP) As an option for participating landowners, the Commission has agreed to make available advance payments from State CREP cost-share funds based on the PIP payment calculated by FSA (40% of eligible costs). This advance payment will be budgeted into each district's CREP contract with the Commission. The district will make the advance payment to qualifying landowners in the same way CREP cost-

share payments are made: after the riparian buffer practices are completed. To qualify for this advance, the landowner must assign his/her PIP payment directly to the Commission using the FSA Assignment of Payment form.

The PIP advance payment is made at zero percent interest and will extend until the riparian buffer is certified, but no longer than three years. The Commission will provide an agreement form to be executed between the landowner and the district for PIP advance payments.

**Special provisions
for CREP contracts
issued prior to July
19, 2000**

The State's PIP payment is 12.5% on CREP contracts executed before July 19, 2000. This is the effective date of Amendment 10 to the State Agreement with FSA, which increased PIP payments from 12.5% to 40% of eligible costs. 50% federal cost-sharing + 37.5% state cost-sharing were in effect then, leaving 12.5% for the PIP.

The State will pay the CRP-SIP portion on CREP contracts executed before July 19, 2000. Districts will make these payments to qualifying landowners in the same way CREP cost-share payments are made. The reason for this provision is that FSA was not authorized to make the CRP-SIP payment prior to July 19, 2000, and the State agreed to pick up this cost.

COST-SHARING PROGRAM

QUESTIONS & ANSWERS

1. Q: *When can my district buy all the materials and pay for complete installation of conservation practices?*

A: In one case only: demonstration sites. If your district wishes to demonstrate new or innovative conservation practices, it may pay up to 100% for such practices on private or public land on a one-time basis. The BMP's demonstrated must show local land-users how new technology or innovative methods can reduce water pollution and conserve natural resources. Again, demonstration sites must incorporate practices that are truly new or innovative, and your district may pay for them completely, but only once.

2. Q: *Besides cost-sharing, is there any way for my district to fund on-the-ground installation of conservation practices?*

A: No. The Commission's cost-sharing program was put in place to give districts a legitimate and economically acceptable way to help their cooperators install BMP's. The cost-sharing program places a ceiling on how much your district can reimburse a cooperator for installing a BMP. This ceiling varies depending on the grant program and the location of the practice.

3. Q: *Can the landowner match required for cost-sharing be applied to our grant's match requirement?*

A: Yes. Your district may apply a cooperator's cost-share contribution toward the match required for your grant. In other words, a cooperator's contribution for the cost-shared practice installed on his/her land (whether it's actual dollars spent installing a practice, or in-kind contribution) may do double-duty: both as cost-share match and also as part of the required match from the district for the overall grant.

4. Q: *If my district has an Implementation grant with a total budget of \$88,888 for two years (\$80,000 in grant dollars from the Commission + \$8,888 in local match), can we use any part of the \$80,000 for cost-sharing?*

A: Yes. Also, if any of the \$8,888 local match is in cash, the district could opt to use it for cost-sharing as well.

5. Q: *If one of our cooperators requested cost-sharing on a practice that cost \$40,000 to implement, how much could we reimburse him/her?*

A: It depends on the grant program and the location of the BMP. Under an Implementation or Competitive water quality grant, the most you could give your cooperator would be \$20,000 if the practice was located at an upland site ($\$40,000 \times 50\% = \$20,000$). In this case, \$20,000 is under the maximum dollar amount of \$25,000 per operation, so it doesn't limit the cost-share reimbursement. If the practice was located in either a riparian zone or in-stream, the most you

could give your cooperator would be \$25,000 ($\$40,000 \times 75\% = \$30,000$ which is reduced to the dollar maximum of \$25,000 per operation).

Under a Dairy Nutrient Management grant, the most you could give your cooperator would be \$30,000 ($\$40,000 \times 75\% = \$30,000$). The dollar maximum for a dairy is now \$50,000 per operation.

Your district is free to set cost-sharing rates lower than the maximum allowed under the Commission's policy.

Under a CREP grant, your district is bound by the FSA-State Agreement to cost-share with participating landowners at a fixed rate of 10 percent. However, there are other special payments your district will make under CREP.

- ☐ Five-year annual maintenance costs.
- ☐ The cost of tree protectors for conifers not covered by FSA.
- ☐ Advance payments based on FSA Practice Incentive Payments (PIP)
- ☐ The CRP-SIP for contracts begun before July 19, 2000.

Please contact the Commission's CREP Coordinator (Debbie Becker, 360-407-6211) with specific questions on any of these special payments.

6. Q: *How can a cooperator make up his share of a cost-shared practice?*

A: The cooperator's share is typically made up of out-of-pocket cash and/or in-kind labor and materials provided by the cooperator. In limited cases, the cooperator may not have to provide any cash or in-kind. In the case of cost-sharing under an Implementation or Competitive grant, this would occur if a practice is located either in-stream or in a riparian zone. In these two cases, the Commission allows cost-sharing from all sources to pay for the entire cost of the practice. So, if a cooperator received 75% cost-share from the district, he could receive the remaining 25% from another funding source.

In the case of cost-sharing under a Dairy Nutrient Management grant, the cooperator will make up 25% of the cost of the practice.

7. Q: *How is a cooperator's in-kind contribution figured?*

A: The amount of Commission cost-sharing is based on the total cost of the BMP. If a cooperator furnishes labor, materials, or equipment as in-kind, they become a part of the total cost, and must be factored in up-front before the district decides how much cost-sharing the cooperator is eligible to receive. Also, cooperators providing in-kind must furnish the district with invoices detailing allowable costs.

8. Q: *Who determines the cost of BMP implementation?*

A: A district may obtain information on the cost of specific BMP's in its area from the NRCS cost list; or from data in the NRCS FOCS system; or from recent historical data in the local FSA office. Where this data is not available, districts may

determine costs for BMP's based on surveys of responsible local vendors and/or contractors.

Alternately, a district may determine the cost of BMP implementation by reviewing recent receipts for installation of the same BMP in their area (when doing this, a district should disregard the highest and lowest receipts, and then average the rest). When the practice has been implemented, the district will reimburse the cooperator a percentage of the established practice cost, or the actual cost, whichever is less.

9. Q: *What can my district appeal in the cost-share policy?*

A: Under Water Quality Grants (Implementation and Competitive) and Dairy Nutrient Management Grants, your district may appeal the cost-share rate and/or the total dollar amount allowed per operation. In either case, your district must show that the existing policy will not allow sufficient cost-sharing to accomplish a significant public benefit, or that a unique situation exists that precludes sufficient landowner match or cost-sharing from another source.

Also, your district may request approval to cost-share in a unique situation where a practice is not a recognized BMP, but which will provide a demonstrable water quality benefit.

10. Q: *How does an appeal work?*

A: Your district must submit a written appeal to the Grants Staff at the Commission's Olympia office. To be considered at the next regular Commission meeting, the appeal should be received at least 15 days prior to that meeting (the Commission meets on the 3rd Thursday of every other month, beginning in January; except during November, when it meets on the Wednesday following the WACD Annual Meeting).

11. Q: *Can my district cost-share with another public entity?*

A: Yes. A district can cost-share with municipalities or counties, or other public entities, as long as the cost-shared practice meets the same requirements as those on private lands. The goal of the Commission's cost-sharing program is to improve water quality, and practices that directly relate to achieving this goal can be eligible for cost-sharing.

12. Q: *Can my district cost-share more than once with the same cooperator, or on the same practice?*

A: Your district may cost-share more than once with the same cooperator (up to the cost-share dollar limit per operation) when that cooperator is implementing a complete conservation plan involving several cost-shareable practices, or when that cooperator implements practices on more than one operation. The \$25,000 limit for non-dairy and \$50,000 limit for dairies is based on operation, not operator. Finally, the limit is also based on the life of the grant under which cost-sharing is done.

13. Q: Will my district be audited on how it uses its cost-share funding?

A: Yes. The Commission Field Operations Managers are carrying out performance reviews of all districts on a rotating basis. During these reviews, your district will be checked for compliance with cost-sharing policy, among other things. You can prepare for these reviews by giving special attention to record keeping, including BARS accounting, and documenting action taken on cost-share requests and approvals during district meetings.

14. Q: What about reporting cost-share distributions to IRS?

A: Districts that disburse cost-share money are not required to send IRS "1099 Miscellaneous" forms to cooperators who received that cost-share money. This is a change in policy and was reviewed, and agreed to, by the Attorney General's Office.

15. Q: What is the procedure for cooperators who default on their cost-sharing agreement?

A: The Commission encourages your district to carefully select cooperators for cost-sharing to avoid this problem. However, if a cooperator does default on his cost-share agreement, your district must attempt to recover the amount of the cost-share (depreciated based on design life). If your district is unsuccessful in this, the Commission will contact the cooperator directly. Legal action through the Attorney General's Office may be taken as a last resort.

16. Q: How do I determine when BMP's were installed retroactively (and are therefore ineligible for cost-sharing)?

A: The term "retroactive" applies to any expenses related to BMP's which were incurred before the date your district chair signed the cost-share agreement.

The cooperator's signature on the cost-share form represents an application for cost-sharing. Your district chair's signature represents board approval and is also the effective date of the cost-sharing agreement.

17. Q: Can my district offer cost-share rates higher than 50% on upland BMPs, if they directly benefit a riparian area?

A: No. The Commission's cost-share policy no longer authorizes districts to pay a rate higher than 50% (using Commission grant funds) for an upland practice no matter how it affects a riparian area.

18. Q: Does the cost-share rate for riparian areas apply to dairy nutrient storage ponds?

A: No. For purposes of this policy, dairy nutrient storage ponds or lagoons do not qualify for the higher riparian cost-share rate.

19. Q: *Can Dairy Nutrient cost-sharing be used to replace or upgrade a practice?*

A: For replacements – If the district dairy planner determines that the proposed replacement involves a practice in the DNMP that is no longer functioning to protect water quality, then the practice is eligible for cost-sharing.

For upgrades – If the district dairy planner determines that the current practices in the DNMP are no longer sufficient to protect water quality, then the practice is eligible for cost-sharing, with the following condition. If the practice as specified in the Plan is no longer serving the function of adequately protecting water quality, then the Plan needs to be updated. Once the plan is updated to include the upgrades, then the upgrades are eligible for cost-sharing.

Cost-sharing may not be used for operation and maintenance of structures or practices.

20. Q: *Who can answer other questions on the cost-sharing program?*

A: Your Field Operations Manager. Also, you may call Bob Bottman (360-407-6204), Cheryl Witt (360-407-6205), Debbie Schenck (360-407-6212), or Ann Holleman (360-407-6114). For CREP cost-share questions, you may call Debbie Becker (360-407-6211).